

1 RENE L. VALLADARES
2 Federal Public Defender
Nevada State Bar No. 11479
2 JOANNE L. DIAMOND
3 Assistant Federal Public Defender
4 411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
5 Joanne_Diamond@fd.org

6 Attorney for Joshua A. Martinez

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9
10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 JOSHUA A. MARTINEZ,
14 Defendant.

Case No. 2:21-cr-00219-APG-DJA

**STIPULATION TO CONTINUE
TRIAL DATES**
(Fifth Request)

15
16 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,
17 United States Attorney, and Daniel Schiess, Assistant United States Attorney, counsel for the
18 United States of America, and Rene L. Valladares, Federal Public Defender, and Joanne L.
19 Diamond, Assistant Federal Public Defender, counsel for Joshua Martinez, that the calendar
20 call currently scheduled for January 31, 2023 at 9:00 a.m., and the trial scheduled for February
21 6, 2023 at 9:00 a.m., be vacated and set to a date and time convenient to this Court, but no
22 sooner than fifty-six (56) days.

23 The Stipulation is entered into for the following reasons:

24 1. Counsel for the defendant has another trial scheduled for the current trial setting,
25 February 6, 2023.

1 2. Defendant's motion to suppress (ECF No. 36) and motion to dismiss (ECF No.
2 39) remain pending. The outcome of either motion could alleviate the need for a trial. The
3 outcome of the motion to suppress will also impact Mr. Martinez's theory of defense. Thus,
4 defense counsel requires additional time to prepare for trial after the motion to suppress is
5 decided.

6 3. The parties are asking for an April trial date to best accommodate their trial
7 schedules. Defense counsel prefers the week of April 3, 10, or 17 to accommodate her expert's
8 planned foreign travel the week of April 24.

9 4. The defendant is out of custody and does not object to the continuance.

10 5. The parties agree to the continuance.

11 6. The additional time requested is not sought for purposes of delay.

12 7. Additionally, denial of this request for continuance could result in a miscarriage
13 of justice. The additional time requested by this Stipulation is excludable in computing the time
14 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
15 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
16 Section 3161(h)(7)(B)(i), (iv).

17 This is the fifth stipulation to continue filed herein.

18 DATED: December 21, 2022.

19 RENE L. VALLADARES
20 Federal Public Defender

21 By /s/ Joanne L. Diamond

22 JOANNE L. DIAMOND
Assistant Federal Public Defender

JASON M. FRIERSON
United States Attorney

By /s/ Daniel Schiess

DANIEL SCHIESS
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOSHUA A. MARTINEZ,
Defendant.

Case No. 2:21-cr-00219-APG-DJA

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Counsel for the defendant has another trial scheduled for the current trial setting, February 6, 2023.

2. Defendant's motion to suppress (ECF No. 36) and motion to dismiss (ECF No. 39) remain pending. The outcome of either motion could alleviate the need for a trial. The outcome of the motion to suppress will also impact Mr. Martinez's theory of defense. Thus, defense counsel requires additional time to prepare for trial after the motion to suppress is decided.

3. The parties are asking for an April trial date to best accommodate their trial schedules. Defense counsel prefers the week of April 3, 10, or 17 to accommodate her expert's planned foreign travel the week of April 24.

4. The defendant is out of custody and does not object to the continuance.

5. The parties agree to the continuance

6. The additional time requested is not sought for purposes of delay.

7. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section § 3161 (h)(7)(A), when the considering the factors under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

ORDER

IT IS THEREFORE ORDERED that trial briefs, proposed voir dire questions, proposed jury instructions, and a list of the Government's prospective witnesses must be electronically submitted to the Court by the 18th day of April, 2023, by the hour of 12:00 p.m.

IT IS FURTHER ORDERED that the calendar call currently scheduled for January 31, 2023, at the hour of 9:00 a.m., be vacated and continued to April 18, 2023 at the hour of 9:00 a.m.; and the trial currently scheduled for February 6, 2023, at the hour of 9:00 a.m., be vacated and continued to April 24, 2023 at the hour of 9:00 a.m. in Courtroom 6C.

DATED this 28th day of December, 2022.

UNITED STATES DISTRICT JUDGE